IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1831 of 2005

Shri Raghbir Prasad S. Vaid ..Petitioner

V/s

State of Maharashtra and Ors..Respondents

Shri R.M.Kedia i/b Mr.A.H.Punwani for Petitioner

Shri V.B.Kondedeshmukh,APP for State

CORAM:SMT.V.K.TAHILRMANI,J.

DATED:3rd August 2005

P.C.:-

1. Heard the learned advocate for the Petitioner, and the learned A.P.P. for the State.

2. The Petitioner has prayed for quashing of complaint i.e. Complaint No.1027/S/03 which is pending in the Court of learned Metropolitan Magistrate, 20th Court, Mazgaon, Bombay. In the said case process has been issued against the Petitioner under Section 138 read with 141 of Negotiable Instrument Act.

3. The learned Advocate for the Petitioner has submitted that the learned Magistrate erred in issuing process

against the Petitioner. He has further submitted that if order issuing process is quashed the complaint and proceedings in respect of Case No.1027/S/03 would come to an end.

4. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No. 213 of 2005 and order dated 21st June 2005 passed in Criminal application NO.550 of 2005. I am of the opinion that the Petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the Petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the Petitioner to prefer revision before the concerned Sessions Court. The learned Advocate for the Petitioner states that the Petitioner is 72 years of age and he is residing at Jalgaon, hence the necessary revision would be preferred by the Petitioner within a period of five weeks from today. Looking to the fact that the Petitioner is 72 years of age and is residing at Jalgaon to enable him to prefer the necessary revision, the proceedings before the trial Court are stayed for a period of five weeks from today.

6. On the necessary revision being preferred by the

Petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

7. Office to issue an authenticated copy of this order to the parties.

8. Petition is disposed of.

(SMT.V.K.TAHAILRAMANI,J.)